

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

PEDRO RUBEN PEREZ-FRIAS,

Petitioner,

vs.

T. JOHNS, Warden; CHIEF COUNSEL
DHS-ICE, Field Office; and GEO
GROUP, a Florida Corporation,

Respondents.

CIVIL ACTION NO.: CV512-133

ORDER

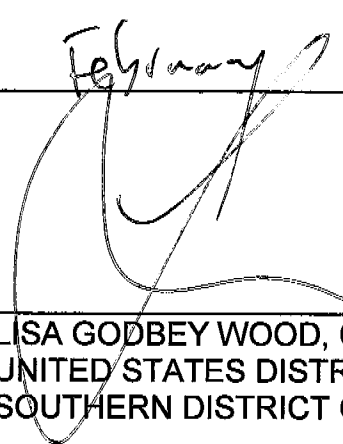
Petitioner Pedro Ruben Perez-Frias ("Perez-Frias") filed an Objection to the Magistrate Judge's Report dated February 5, 2013, which recommended that Perez-Frias' 28 U.S.C. § 2241 petition be dismissed. After an independent and de novo review of the record, the undersigned concurs with the Magistrate Judge's Report and Recommendation.

In his Objection, Perez-Frias argues that the Magistrate Judge failed "to address the question posed to this court: Whether the district court orally pronounce [sic] as a special condition of supervised release that 'upon completion of his term of imprisonment, the defendant is to be surrendered to a duly-authorized immigration official for deportation.'" (Doc. No. 14, pp. 1, 3). Perez-Frias contends that because the district court did not mention that provision at the sentencing hearing, the United States Immigration and Customs Enforcement ("ICE") detainer that has been lodged

against him is unlawful. The Magistrate Judge recommended dismissal of Perez-Frias' § 2241 petition because Perez-Frias is not in custody of ICE, resulting in this Court lacking subject matter jurisdiction over Perez-Frias' § 2241 petition. The undersigned agrees with the Magistrate Judge that this Court lacks subject matter jurisdiction to entertain the merits of Perez-Frias' petition. Because the Court lacks subject matter jurisdiction, the Magistrate Judge properly refrained from discussing the merits of the instant petition, including Perez-Frias' argument concerning the sentencing court's failure to mention the detainer during sentencing.

Perez-Frias' Objection to the Magistrate Judge's Report and Recommendation is without merit and is **overruled**. The Report and Recommendation of the Magistrate Judge is adopted as the Opinion of the Court. Perez-Frias' 28 U.S.C. § 2241 petition is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 29 day of February, 2013.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA